

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ARMANDO JAUREGUI,

Plaintiff,

v.

DARCY CAMERON, *et al.*,

Defendants.

Case No. 3:19-cv-00528-MMD-CLB

ORDER

This is a *pro se* civil rights action filed pursuant to 42 U.S.C. § 1983 by a former state prisoner. On May 8, 2020, this Court issued an order denying the application to proceed *in forma pauperis* for prisoners as moot because Plaintiff was no longer incarcerated. (ECF No. 4.) The Court ordered Plaintiff to file a fully complete application to proceed *in forma pauperis* for non-prisoners or pay the full filing fee of \$400.00 within 30 days from the date of that order. (*Id.*) The 30-day period has now expired, and Plaintiff has not filed an application to proceed *in forma pauperis* for non-prisoners, paid the full filing fee, or otherwise responded to the Court's order. The Court will therefore dismiss this case.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–41

1 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to
2 keep court apprised of address); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir.
3 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d
4 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with
5 local rules).

6 In determining whether to dismiss an action for lack of prosecution, failure to obey
7 a court order, or failure to comply with local rules, the court must consider several factors:
8 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
9 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
10 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
11 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;
12 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

13 In the instant case, the Court finds that the first two factors weigh in favor of
14 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
15 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
16 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
17 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor, public policy favoring
18 disposition of cases on their merits, is greatly outweighed by the factors in favor of
19 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey the
20 court's order will result in dismissal satisfies the "consideration of alternatives"
21 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d
22 at 1424. The Court's order requiring Plaintiff to file an application to proceed *in forma*
23 *pauperis* for non-prisoners or pay the full filing fee within 30 days explicitly provided that,
24 if Plaintiff did not timely comply with the order, dismissal of this action may result. (ECF
25 No. 4 at 2.) Thus, Plaintiff had adequate warning that dismissal would result from his
26 noncompliance with the Court's order to file an application to proceed *in forma pauperis*
27 for non-prisoners or pay the full filing fee within 30 days.

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1 It is therefore ordered that this action is dismissed without prejudice based on
2 Plaintiff's failure to file an application to proceed *in forma pauperis* for non-prisoners or
3 pay the full filing fee in compliance with this Court's May 8, 2020 order. If Plaintiff wishes
4 to pursue any claims, he must file a complaint in a new action with the required fee or
5 application to proceed *in forma pauperis* for non-prisoners.

6 It is further ordered that the Clerk of the Court enter judgment accordingly and close
7 this case. No other documents will be filed in this action.

8 DATED THIS 16th day of June 2020.

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MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE

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